

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-135695-02

Date:

August 5, 2002

LEGEND

Taxpayer =

Entity A =

Entity B =

Individual A =

Dates One and Two =

Dates A, B =

Dear :

This replies to a letter dated May 12, 2002, submitted on behalf of Taxpayer, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to attach to its U.S. income tax return for the tax year ended on Date A and on Date B the documents provided under § 1.1503-2(g)(2)(iii)(B). Additional information was previously submitted in letters dated June 29, 2001, and January 24, 2002. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

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On Date One, Entity A disposed of substantially all of its business assets and recognized a loss on the sale.

On Date Two, Entity B sold substantially all of its assets and recognized a loss on the sale.

Individual A is the Vice President and Chief Financial Officer of Taxpayer. The affidavit of Individual A and the facts submitted discuss his reasons for his conclusion that Taxpayer was not supposed to attach to its U.S. tax return for the tax year ended on Date A and on Date B the documents provided under § 1.1503-2(g)(2)(iii)(B), and demonstrate that Taxpayer reasonably relied on Individual A's advice not to file the documents.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, § 1.1503-2(g)(2)(iii)(B) fixes the time to file the documents. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to attach to its U.S. income tax return for the tax year ended on Date A and on Date B the documents provided under § 1.1503-2(g)(2)(iii)(B).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the documents, nor is it a determination that Taxpayer has rebutted the

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presumption of a triggering event as provided under § 1.1503-2(g)(2)(iii)(B).
§ 301.9100-1(a).

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this ruling letter should be associated with the documents.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)